BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

DOUGLAS K. HOESLI	)	
Claimant	)	
VS.	)	
	)	Docket No. 1,056,540
TRIPLETT, INC.	)	
Respondent	)	
AND	)	
	)	
FEDERATED MUTUAL INSURANCE COMPANY	)	
Insurance Carrier	)	

ORDER

Claimant requested review of the June 20, 2012 Award by Administrative Law Judge (ALJ) Bruce E. Moore. The Board heard oral argument on November 6, 2012.

APPEARANCES

Jan L. Fisher, of Topeka, Kansas, appeared for the claimant. Vincent A. Burnett, of Wichita, Kansas, appeared for respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Board has considered the record and adopted the stipulations listed in the Award. The parties acknowledged at oral argument to the Board that the 21 percent task loss finding of the ALJ is not in dispute and may be utilized to calculate any work disability the Board may find appropriate. The parties also agreed that the post-accident wage calculations of the ALJ are accurate and may be utilized to calculate what if any wage loss claimant may have suffered in this matter under K.S.A. 44-510e.

ISSUES

The ALJ found claimant entitled to a 13 percent whole body functional impairment. Respondent contends claimant should be limited to a 7 percent whole body functional impairment, based upon the opinion of claimant's treating physician Gary Harbin, M.D.

Claimant contends the ALJ's award of a 13 percent whole body functional impairment should be affirmed.

Claimant argues his average weekly wage should be $535.63, which would leave claimant with a 66.55 percent wage loss, and would leave an underpayment of temporary total disability in the amount of $40.32. Claimant also argues that the social security retirement offset should not apply as claimant was receiving the benefits at full retirement age, two years before the accident and continued to do so after the accident, therefore there should be no reduction in benefits.

Respondent argues claimant's average weekly wage should be $508.71, for a compensation rate of $339.16. Respondent asserts it is entitled to a weekly retirement credit of $420 against claimant's workers compensation benefits pursuant to K.S.A. 44-501(h), which would limit claimant to his functional impairment due to the retirement credit, which exceeds claimant's weekly compensation rate.

Issues

1. What is claimant's average weekly wage?

2. What is the nature and extent of claimant's injuries and disability?

3. Should the Award of compensation be offset by the amount of claimant's social security retirement benefits pursuant to K.S.A. 44-501(h)? At oral argument to the Board respondent clarified this issue to include the award of temporary total disability compensation (TTD) to claimant.

4. Was there an underpayment of TTD?

Findings of Fact

Claimant began working for respondent in 2008 as a semi-truck driver. Before beginning his work, claimant underwent a pre-employment physical and was cleared to work for respondent. He performed the job for a year, driving a semi eight hours a day. He made $11 an hour. At some point, claimant began to pass out or faint and he had to stop driving. Claimant did not find out what was causing these episodes. The episodes stopped after he quit driving a truck at the beginning of 2009. Claimant has 40 years of experience driving a semi-truck.

Claimant's next job with respondent was in maintenance. He was tasked with performing maintenance such as fixing doors, welding and working on vehicles. Claimant is an automotive mechanic not a diesel mechanic. Claimant was paid $10 an hour. He did not work overtime, nor did he receive any insurance or retirement benefits from

respondent. Claimant is currently receiving $1,820 a month in social security retirement benefits and is receiving Medicare.

On May 13, 2010, claimant was cleaning out gutters at one of the company's storage areas. Claimant was about 10 feet up on a 16 foot extension ladder.[1] He testified that the ladder just slipped out from under him and he fell, landing on his right hip and then his back.[2] Claimant testified that his fall occurred because the pavement under the ladder was slippery from the water hose he was using to clean out the gutters. Claimant denied a fainting spell caused him to fall off the ladder. Claimant was taken by ambulance to Salina Regional Medical Center.

Claimant cracked the two ribs that are six inches from his neck, where the sternum splits, and injured his lower back at L2 and also his chest.[3] Claimant stayed in the hospital overnight and 10 days later started treatment with Dr. Gary Harbin for the fracture at L2.

Claimant began treatment with Dr. Harbin, a board certified orthopaedic surgeon, on May 24, 2010. X-rays were ordered and it was determined that claimant had a lumbar spine injury at L2. Claimant was put in a brace and scheduled to return on June 23, 2010. Claimant continued to have pain in his back even with the use of the brace. Claimant was treated for several more months with no change in his condition. Claimant worked light duty during those months. Claimant was allowed to return to regular duty on September 27, 2010.

Claimant was seen by Dr. Harbin's physicians assistant Jeffery K. Mincks, P.A.-C., on February 21, 2011, with complaints of chronic chest pain and discomfort. Claimant continued to complain of back pain through April 4, 2011. He had some loss of range of motion of the lumbar spine but no other abnormalities. Claimant was released on April 4, 2011. Instead of assigning restrictions, Mr. Mincks told claimant that if it hurts don't lift, and cautioned that claimant probably shouldn't lift anything over 80 pounds.

Dr. Harbin assigned claimant a 7 percent impairment to the body as a whole due to claimant's loss of range of motion. He used the range of motion model from the 4th Edition of the AMA *Guides*. Dr. Harbin opined claimant had three problems: a compression fracture at L2; an abnormality at T12; and a sternal fracture. Dr. Harbin related the T12 abnormality to the compression fracture at L2. He did not look at or rate the sternal fracture. Dr. Harbin reviewed the task list of Steve Benjamin and opined that claimant has a 10.7 percent task loss having lost the ability to perform 3 of 28 nonduplicated tasks.

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[1] Claimant's Depo. at 20.

[2] *Id.* at 21.

[3] R.H. Trans. at 22.

Dr. Harbin took claimant off work for 12 weeks. Claimant was released in April 2011. When he returned to work he went back to working in maintenance full-time. Claimant had a hard time performing this job full-time and required assistance with the lifting.

Claimant testified that he talked with his supervisor, Butch Stucky,[4] about modifying his work duties a month and a half after the accident. By the Spring of 2011, claimant was not doing well and reported continued pain in his back and chest. Claimant resigned from his job with respondent on May 23, 2011.

Claimant testified that after he resigned in May 2011, he planned to go work for OCCK driving a bus, but his hearing was not good enough and his employment application was rejected. Claimant's resignation from respondent only lasted three weeks, after which claimant returned to work for respondent part-time at Mr. Stucky's request.[5]

Claimant worked part-time two days a week from May 2011 to October 2011 after which he began working three days a week. He picked up the extra day after deciding he didn't want to stay home and take care of his kids. Claimant is currently still employed by respondent in maintenance, working part-time 26 to 27 hours a week at $10 an hour.[6]

Although claimant was 65 years old when he began working for respondent, he was not drawing social security retirement. He began to draw full benefit in the amount of $1,820 per month when he turned 66 in April 2008.[7] There is no offset between his social security retirement benefits and his income with respondent due to his age and a change in the social security law.

Claimant's part-time employment with respondent is lighter in nature. He limits himself to lifting no more than 50 pounds. He came up with this number as a split of the limits of the two doctors he met with. Claimant is able to perform some of the tasks of his job. He testified that there has only been probably three times when he lifted 70 pounds, and that would be while moving tires. Claimant doesn't have anyone to help with his current job. Claimant acknowledged that working part-time has improved his daily pain level.[8] He continues to have trouble with his lower back and chest and lifting and pulling

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[4] Claimant testified Butch's last name was Strickland, but it is Stucky.

[5] R.H. Trans. at 26.

[6] *Id.* at 15.

[7] *Id.* at 17.

[8] *Id*. at 33.

on things aggravates his pain. However, the pain is intermittent and only spikes when he lifts at least 60 pounds or is holding something up.[9]

Claimant denied any prior problems with his chest or back. His current complaints are pain in his hip and chest. Those problems limit claimant's ability to drive or ride in an automobile and prohibit his lifting anything too heavy.

Claimant has a history of work-related accidents. On December 11, 1991, claimant was traveling downhill and came around a curve when his tractor slipped on a snow pack and slid up an embankment, landing on its left side leaving claimant with two cracked ribs on his left side. Claimant received treatment, but had no permanent impairment nor compensation beyond the medical care. He did have temporary restrictions.

On February 21, 1996, while working for Western Auto Supply Company, claimant had a workplace accident while attempting to remove blocking under a metal trailer. Claimant suffered only a cut on his head. He received treatment, but no other compensation for that injury.

On November 7, 1999, claimant was involved in an automobile accident. Claimant's vehicle hit a deer, flipped over and went into a ditch. He sustained no injuries from this accident.

Mark Augustine, president of Triplett, Inc., has been president of the company since 1993 and is involved in the day-to-day operations. The company's operations manager is Donovan "Butch" Stucky.

Mr. Augustine confirmed that claimant was hired to work for the company as a truck driver and later moved into maintenance in January 2010. He confirmed that claimant's move to maintenance was due to claimant's medical issues.

Claimant notified Mr. Augustine in May 2011 that he was going to resign from his employment because he was working more hours than he wanted due to his physical condition. Claimant didn't mention any particular job tasks that were causing him problems. Claimant was later asked if he would be willing to work on a part-time basis instead of resigning and claimant agreed to work on Tuesdays and Thursdays.

At his attorney's request, claimant met with board certified orthopedic surgeon Edward J. Prostic, M.D., on July 11, 2011. Claimant complained of pain in the front of his chest and his low back and of numbness of his anterolateral right thigh. He reported stiffness when he wakes up in the morning and his pain is worse with sitting and bending.

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[9] *Id.* at 34.

Dr. Prostic examined claimant and noted tenderness at the lower portion of the sternum, tenderness of the upper lumbar segments, and compression fractures at T12 and L2 and vacuum disc degeneration at L5-S1.

Dr. Prostic opined that claimant's fall caused fractures at T12 and L2, injury to the sternum, and an aggravation of preexisting degenerative disc disease in the low back. He indicated claimant's right leg symptoms are most likely from meralgia paresthetica. He assigned permanent work restrictions of lifting no more than 30 pounds occasionally knee to shoulder or half that much frequently, claimant should minimize activities below knee height or above shoulder height and should avoid frequent bending or twisting at the waist, forceful pushing or pulling and no more than minimal use of vibrating equipment. Dr. Prostic assigned claimant a 15 percent permanent partial impairment to the body as a whole on a functional basis. Dr. Prostic also found claimant to have a 52.9 percent task loss having lost the ability to perform 9 of 17 tasks.

PRINCIPLES OF LAW AND ANALYSIS

In workers compensation litigation, it is the claimant's burden to prove his or her entitlement to benefits by a preponderance of the credible evidence.[10]

The burden of proof means the burden of a party to persuade the trier of fact by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record.[11]

K.S.A. 2009 Supp. 44-511(a)(2)(b)(4) states:

> (2) The term ''additional compensation'' shall include and mean only the following: (A) Gratuities in cash received by the employee from persons other than the employer for services rendered in the course of the employee's employment; (B) any cash bonuses paid by the employer within one year prior to the date of the accident, for which the average weekly value shall be determined by averaging all such bonuses over the period of time employed prior to the date of the accident, not to exceed 52 weeks; (C) board and lodging when furnished by the employer as part of the wages, which shall be valued at a maximum of $25 per week for board and lodging combined, unless the value has been fixed otherwise by the employer and employee prior to the date of the accident, or unless a higher weekly value is proved; (D) the average weekly cash value of remuneration for services in any medium other than cash where such remuneration is in lieu of money, which shall be valued in terms of the average weekly cost to the employer of such remuneration for the employee; and (E) employer-paid life insurance, health and accident

[10] K.S.A. 44-501 and K.S.A. 44-508(g).

[11] *In re Estate of Robinson*, 236 Kan. 431, 690 P.2d 1383 (1984).

> insurance and employer contributions to pension and profit sharing plans. In no case shall additional compensation include any amounts of employer taxes paid by the employer under the old-age and survivors insurance system embodied in the federal social security system. Additional compensation shall not include the value of such remuneration until and unless such remuneration is discontinued. If such remuneration is discontinued subsequent to a computation of average gross weekly wages under this section, there shall be a recomputation to include such discontinued remuneration.
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> (5) . . .
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> (b) The employee's average gross weekly wage for the purpose of computing any compensation benefits provided by the workers compensation act shall be determined as follows:
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> (4) If at the time of the accident the employee's money rate was fixed by the hour, the employee's average gross weekly wage shall be determined as follows: (A) If the employee was a part-time hourly employee, as defined in this section, the average gross weekly wage shall be determined in the same manner as provided in paragraph (5) of this subsection; (B) if the employee is a full-time hourly employee, as defined in this section, the average gross weekly wage shall be determined as follows: (i) A daily money rate shall first be found by multiplying the straight-time hourly rate applicable at the time of the accident, by the customary number of working hours constituting an ordinary day in the character of work involved; (ii) the straight-time weekly rate shall be found by multiplying the daily money rate by the number of days and half days that the employee usually and regularly worked, or was expected to work, but 40 hours shall constitute the minimum hours for computing the wage of a full-time hourly employee, unless the employer's regular and customary workweek is less than 40 hours, in which case, the number of hours in such employer's regular and customary workweek shall govern; (iii) the average weekly overtime of the employee shall be the total amount earned by the employee in excess of the amount of straight-time money earned by the employee during the 26 calendar weeks immediately preceding the date of the accident, or during the actual number of such weeks the employee was employed if less than 26 weeks, divided by the number of such weeks; and (iv) the average gross weekly wage of a full-time hourly employee shall be the total of the straight-time weekly rate, the average weekly overtime and the weekly average of any additional compensation.

On the date of accident, claimant was earning $10.00 per hour, working 40 hours per week. In the 26 weeks leading to the accident, claimant worked overtime hours, earning a total of $2,826.49 in overtime pay. This calculates to a weekly overtime amount of $108.71. Combined, this calculates to an average weekly wage of $508.71. Claimant

argues that during the 26 weeks prior to the accident he earned a higher hourly rate than he was receiving on the date of accident. Claimant contends those added amounts should be included as overtime in the average weekly wage. However, claimant provides no statutory or case law to support this position. The statute provides the hourly wage on the date of accident is to be used when calculating the average weekly wage. Were claimant's position accepted by the Board, then any time a claimant has an increase in his or her hourly rate, the lower earlier rates would also have to be utilized to calculate the wage on the date of the accident. Claimant's proposed method violates the plain language of the statute.

Claimant was paid a bonus of $150.00 in the year preceding the accident. This calculates to a weekly benefit of $2.88. At oral argument to the Board the parties agreed to the inclusion of the bonus amount in the average weekly wage. The final calculation of a $511.59 average weekly wage on the date of accident will be utilized by the Board. The ALJ's calculation of the weekly temporary total disability benefit amount and resulting overpayment of benefits is, therefore, affirmed.[12]

The parties have agreed that the post-injury wage calculations of the ALJ are appropriate. The Board, by affirming the ALJ's determination of claimant's average weekly wage on the date of accident, resultantly also affirms the ALJ's determination of the wage loss suffered by claimant.

K.S.A. 2000 Furse 44-510e(a) states in part:

> Functional impairment means the extent, expressed as a percentage, of the loss of a portion of the total physiological capabilities of the human body as established by competent medical evidence and based on the fourth edition of the American Medical Association Guides to the Evaluation of Permanent Impairment, if the impairment is contained therein.[13]

This record contains two impairment ratings from claimant's May 13, 2010, accident. Dr. Harbin and Dr. Prostic both determined claimant's functional loss, with differing opinions as to the final result. The ALJ, in considering both opinions, found they deserved equal weight in calculating the final functional impairment suffered by claimant. The Board agrees and affirms the finding that claimant has suffered a 13 percent whole person functional impairment as the result of the accident on May 13, 2010.

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[12] ALJ Award (Jun. 20, 2012) at 8.

[13] K.S.A. 44-510e(a).

K.S.A. 2009 Supp 44-501(h) states:

> (h) If the employee is receiving retirement benefits under the federal social security act or retirement benefits from any other retirement system, program or plan which is provided by the employer against which the claim is being made, any compensation benefit payments which the employee is eligible to receive under the workers compensation act for such claim shall be reduced by the weekly equivalent amount of the total amount of all such retirement benefits, less any portion of any such retirement benefit, other than retirement benefits under the federal social security act, that is attributable to payments or contributions made by the employee, but in no event shall the workers compensation benefit be less than the workers compensation benefit payable for the employee's percentage of functional impairment.

The Kansas Supreme Court, in *Dickens*[14] cited *Boyd*[15], which stated "[W]orkers such as the plaintiff here, who are already retired and receiving social security old age benefits before starting work on a part-time job to supplement those benefits, suffer a second wage loss when they are injured in the course of their employment."[16] The Court went on to reverse the Board's determination that an offset in *Dickens* should be allowed.

Here, claimant began receiving social security benefits while still working for respondent and before he actually retired from his full-time employment with respondent. He had reached an age where he could collect his social security benefits without concern for how much money he was earning at his job. This accident occurred after claimant began collecting social security, but before he retired. A similar situation was considered by the Court of Appeals in *McIntosh*[17]. In *McIntosh,* the claimant was working full-time, earning full wages, but had applied for and was receiving social security old age benefits. The claimant in *McIntosh* had planned to retire, but suffered a work related accident before the scheduled date of retirement. The Court held:

> "In instances in which a worker sustains a work-related injury before the worker's actual date of retirement, social security retirement benefits, which are designed to restore a portion of the worker's wages lost due to age, duplicate workers compensation benefits, which are designed to restore a portion of the worker's wages lost due to injury."[18]

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[14] *Dickens v. Pizza Co.*, 266 Kan. 1066, 974 P.2d 601 (1999)

[15] *Boyd v. Barton Transfer & Storage*, 2 Kan. App. 2d 425, 580 P. 2d 1366, *rev. denied* 225 Kan. 843 (1978).

[16] *Id.* at 428.

[17] *McIntosh v. Sedgwick County*, 32 Kan. App. 2d 889, 91 P.3d 545, *rev. denied* 278 Kan. 846 (2004).

[18] *Id.*, Syl. ¶ 2.

Here, claimant was working full-time, earning full wages and had not yet retired when he began receiving social security benefits. Under both *Dickens* and *McIntosh* an offset of claimant's social security benefits against any workers compensation award is appropriate. The Award of the ALJ on this issue is affirmed.

However, the ALJ did not address whether an offset of claimant's social security benefits should be allowed against the TTD awarded claimant. The only limitation placed on the offset by K.S.A. 2009 Supp. 44-501(h) deals with claimant's functional impairment. Respondent argues that the social security offset should apply to the payment of TTD as well as any permanent work disability, above the functional impairment awarded to claimant. However, this issue does not appear to have been raised to the ALJ at the time of the regular hearing nor in respondent's submission letter to the ALJ. Under K.S.A. 2009 Supp. 44-555c(a) the Board is limited to deciding issues raised to and determined by the ALJ. That is not the case here on the TTD offset issue.

K.S.A. 2000 Furse 44-510e(a)(1)(2)(3) states:

> (a) . . . The amount of weekly compensation for permanent partial general disability shall be determined as follows:
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> (1) Find the payment rate which shall be the lesser of (A) the amount determined by multiplying the average gross weekly wage of the worker prior to such injury by $66^{2/3}$% or (B) the maximum provided in K.S.A. 44-510c, and amendments thereto;
> (2) find the number of disability weeks payable by subtracting from 415 weeks the total number of weeks of temporary total disability compensation was paid, and multiplying the remainder by the percentage of permanent partial general disability as determined under this subsection (a); and
> (3) multiply the number of disability weeks determined in paragraph (2) of this subsection (a) by the payment rate determined in paragraph (1) of this subsection (a).
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> The resulting award shall be pain for the number of disability weeks at the full payment rate until fully paid or modified. If there is an award of permanent disability as a result of the compensable injury, there shall be a presumption that disability existed immediately after such injury. In any case of permanent partial disability under this section, the employee shall be paid compensation for not to exceed 415 weeks following the date of such injury, subject to review and modification as provided in K.S.A. 44-528 and amendments thereto.

However, if the issue were to be determined, the Board would rule against respondent's request. K.S.A. 2009 Supp. 44-501(h), above cited, limits the offset to no less than the benefit payable for the employee's percentage of functional impairment. Functional impairment is calculated pursuant to the instructions contained in K.S.A. 2009 Supp. 44-510e(a)(1)(2)(3). Functional impairment cannot be calculated without first taking into consideration the TTD awarded. If respondent is granted an offset against the TTD awarded, the amount of functional impairment will be impacted, ultimately violating K.S.A.

2009 Supp. 44-501(h). The Award will not be modified to offset claimant's TTD by his weekly social security benefit.

Claimant argues that a change in the social security law, i.e. the elimination of the wage earning maximum should distinguish this case from *McIntosh*, arguing to do otherwise would render K.S.A. 2009 Supp. 44-501(h) unconstitutional as violating the Equal Protection Clause.

The Board has long held that it is not a court established pursuant to Article III of the Kansas Constitution and does not have the authority to hold that an Act of the Kansas Legislature is unconstitutional. Stated another way, the Board is not a court of proper jurisdiction to decide the constitutionality of laws in the State of Kansas. Consequently, the Board does not have the authority to hold that a statute is void.[19] Claimant acknowledged the Board's lack of authority on this issue, bringing the matter before the Board for the purpose of preserving the issue for appeal. That issue is better reserved for the Kansas Court of Appeals or Supreme Court.

CONCLUSIONS

Having reviewed the entire evidentiary file contained herein, the Board finds the Award of the ALJ should be affirmed.

AWARD

WHEREFORE, it is the finding, decision and order of the Board that the Award of Administrative Law Judge Bruce E. Moore dated June 20, 2012, should be and is affirmed.

[19] *Jones v. Tyson Fresh Meats, Inc.*, No. 1,030,753, 2008 WL 651673 (Kan. WCAB Feb. 27, 2008).

IT IS SO ORDERED.

Dated this _____ day of January, 2013.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

CONCURRING OPINION

The undersigned Board Member agrees that an offset for temporary total disability is inappropriate. If respondent were to be granted an offset against the temporary total disability awarded, the amount of his award for functional impairment would be impacted. While K.S.A. 2009 Supp. 44-501(h) states that all compensation benefits shall be reduced by the weekly equivalent amount of social security retirement benefits, the statute forbids claimant from receiving less than the workers compensation benefit payable for his percentage of functional impairment.

K.S.A. 2000 Furse 44-525(c) states:

> In the event the employee has been overpaid temporary total disability benefits as described in subsection (b) of K.S.A. 44-534a, and amendments thereto, and the employee is entitled to additional disability benefits, the administrative law judge shall provide for the application of a credit against such benefits. The credit shall first be applied to the final week of any such additional disability benefit award and then to each preceding week until the credit is exhausted.

K.S.A. 2000 Furse 44-534a(b) states:

> If compensation in the form of medical benefits or temporary total disability benefits has been paid by the employer or the employer's insurance carrier either voluntarily or pursuant to an award entered under this section and, upon a full hearing on the

> claim, the amount of compensation to which the employee is entitled is found to be less than the amount of compensation paid or is totally disallowed, the employer and the employer's insurance carrier shall be reimbursed from the workers compensation fund established in K.S.A. 44-566a and amendments thereto, for all amounts of compensation so paid which are in excess of the amount of compensation the employee is entitled to less any amount deducted from additional disability benefits due the employee pursuant to subsection (c) of K.S.A. 44-525, and amendments thereto, as determined in the full hearing on the claim. The director shall determine the amount of compensation paid by the employer or insurance carrier which is to be reimbursed under this subsection, and the director shall certify to the commissioner of insurance the amount so determined. Upon receipt of such certification, the commissioner of insurance shall cause payment to be made to the employer or the employer's insurance carrier in accordance therewith. No reimbursement shall be certified unless the request is made by the employer or employer's insurance carrier within one year of the final award.

Following the literal language of K.S.A. 2009 Supp. 44-501(h), claimant's temporary total disability benefits could be reduced by his receipt of social security benefits. If he received more temporary total disability compensation than he was entitled to receive, or such temporary total disability compensation should have been totally disallowed, K.S.A. 2000 Furse 44-525(c) directs that a credit be taken from claimant's entitlement to any additional disability benefits. The only additional disability benefits would be claimant's permanent partial disability payments for functional impairment. Claimant's entitlement to permanent partial disability benefits could be reduced by a possible social security offset for his having received temporary total disability payments he was not entitled to receive. Therefore, K.S.A. 2000 Furse 44-525(c) would be directing a result contrary to the specific prohibition in K.S.A. 2009 Supp. 44-501(h) that claimant can not receive less than the benefit payable for his percentage of functional impairment. The more specific statute, K.S.A. 2009 Supp. 44-501(h), controls over the more general statute, K.S.A. 2000 Furse 44-525(c). Claimant's temporary total disability benefits should not be offset by his weekly social security benefit.

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BOARD MEMBER

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Bruce E. Moore, Administrative Law Judge